

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 08-54849

MELVIN TAYLOR,

Chapter 13

Debtor.

Judge Thomas J. Tucker

**ORDER SUSTAINING IN PART AND OVERRULING IN PART ONE OF TRUSTEE'S
OBJECTIONS TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN**

This case came before the Court for hearing on November 6, 2008 on confirmation of the Debtor's proposed Chapter 13 plan (Docket # 6). The Chapter 13 Trustee filed objections to confirmation on October 16, 2008 (Docket # 25). At the November 6 hearing, counsel for the Trustee and counsel for Debtor presented argument to the Court regarding one of the Trustee's objections to confirmation, which was stated in ¶ 3 of the Trustee's October 16 Objections. The Court then issued its ruling on the Trustee's objection from the bench.¹

The Court finds and concludes that this Order should be entered under 11 U.S.C. § 105(a), as "necessary or appropriate to carry out the provisions of" the Bankruptcy Code,

¹ The Court then adjourned the confirmation hearing until December 4, 2008 at 9:00 a.m., which adjournment will be reflected by a separate Order to be entered.

specifically to carry out the provisions of 11 U.S.C. §§ 521(a)(1)(B)(iii)(I) and 342(b).² For this reason, and for the reasons stated by the Court on the record during the November 6 hearing,

IT IS ORDERED that:

1. The Chapter 13 Trustee's objection to confirmation, contained in ¶ 3 of the "Trustee's Objections to Confirmation of Chapter 13 Plan," filed October 16, 2008 (Docket # 25), is sustained to the extent that Debtor will be required to take the action required by this Order, and otherwise is overruled.
2. No later than November 13, 2008, Debtor must file a certificate, signed by Debtor's attorney, which states that such attorney delivered to the Debtor the written notice required by 11 U.S.C. § 342(b), and Debtor must attach to this certificate a copy of the written notice that was delivered to the Debtor.³

Signed on November 7, 2008

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge

² The Court finds and concludes that the better practice, and one that will better facilitate the Court's ability to insure that the Debtor's attorney has given the Debtor a written notice that fully complies with § 342(b), is to require that Debtor's attorney file a copy of the actual written notice provided to the Debtor, rather than merely certifying in a conclusory manner, as Debtor's attorney did here, "that I have delivered to the Debtor the notice required by 11 U.S.C. § 342(b)." (See Exhibit B on p. 2 of bankruptcy petition, Docket # 1). An example of one simple and appropriate method of doing this, and one that appears to be common in this district, can be found in the case of *In re Robertson*, Case No. 08-65050, at Docket # 1, at pdf pp. 6-7 (where Official Form B 201, signed by Debtor's attorney and the Debtors, was filed with the bankruptcy petition). Form B 201 is available through the Court's website, <http://www.mieb.uscourts.gov/>, under "Rules and Forms; Official Bankruptcy Forms."

³ During the November 6, 2008 hearing, Debtor's attorney stated that his office has a copy of the § 342(b) notice that Debtor's attorney gave to the Debtor before this bankruptcy case was filed, and which written notice is referred to in the "Exhibit B" section on p. 2 of the Debtor's bankruptcy petition (Docket # 1). It is unclear whether the written notice that Debtor's counsel gave Debtor is Official Bankruptcy form B 201, or some other document.